

REMARKS

Introduction

The above amendments and these remarks are responsive to the Office action mailed on May 8, 2009. Claims 1, 5-12, 15-21, 25-32 and 35-40 are pending in the application, and are rejected in the Office action as obvious over US5402702 to Hata. Additionally, a number of claims are rejected as being indefinite.

Applicants respectfully traverse the rejections. In this response, claims 1, 5-12, 15-19, 25-32, and 35-40 are canceled without prejudice. Claim 20 is amended to more particularly recite the subject matter for which protection is sought, and new claims 47-50 are added. New claims 47 and 48 depend from claim 20 and recite subject matter previously recited in claims 11 and 12. New claim 49 is independent, and new claim 50 depends from claim 49 and recites subject matter previously recited in claims 31 and 39.

In view of the amendments above, and the remarks below, applicants respectfully request reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

Rejections under 35 USC § 112

The Office action includes a number of rejections under 35 U.S.C. § 112, second paragraph, in which claims 7, 10, 12, 18, 27, 30, 38, and 40 are asserted to be indefinite. However, these claims are canceled herein, and the rejections are thus believed to be overcome.

Rejections under 35 USC § 103

The pending claims are rejected under 35 U.S.C. § 103 as being unpatentable over Hata. However, all of the rejected claims except claim 20 are canceled herein.

With respect to claim 20, the claim is amended to recite that the sound analyzers are configured to suppress certain frequencies and thereby reduce the likelihood that sounds having these frequencies will result in the production of both first and second control signals. This subject matter finds support in, for example, paragraphs [0021] and [0026], and Fig. 5.

Hata fails to disclose or even suggest this subject matter. Specifically addressing the disclosure of Hata cited in the Office action, the embodiment illustrated in Fig. 15 is a synchronization-type apparatus arranged so that lights flash in accordance with music based on the frequencies of detected sound (Hata 6:6-11). The apparatus includes several band-pass filters coupled to time constant circuits so that the voltage produced, which triggers each of several LEDs, is synchronized with the detection of sound by each of the band-pass filters (Hata 6:6 – 7:22). Contrary to the assertion in the Office action, Hata does not “isolate portions of an audio signal that are of interest and reject those not of interest;” rather, the embodiment shown in Fig. 15 employs several band-pass filters so that the system is more inclusive of the frequency ranges characteristic of different parts of music (i.e., vocals, drums, and so forth), so that more can be detected. In other words, Hata does not disclose suppressing frequencies that are detected by any of the band-pass filters, as recited in claim 20; to do so would be contrary to the concept of using several band-pass filters to ensure synchronization of flashing lights with the sound of music. Therefore, modification of the Hata reference to suppress some of the frequencies detected by the various band-pass filters cannot be considered to have been an obvious modification. Rather, because the embodiment shown in Fig. 15 of Hata is configured to flash lights synchronous with musical sounds, it is specifically drawn to a different solution than that of the present application,

which includes a toy designed to present a challenge to human users to produce sounds that activate supra-voice actions without actuation of voice-activated actions (see paragraph [0028]).

New claim 49 is a method claim directed to the actions recited in independent claim 20, and is believed to be allowable over the cited art of record for at least the same reasons.

Conclusion

Applicants believe that this application is in condition for allowance, in view of the above amendments and remarks. Accordingly, Applicants respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance covering the pending claims. If there are any questions, or if a telephone interview would in any way advance prosecution of the application, the Examiner is invited to contact the undersigned attorney of record.

CERTIFICATE OF E-FILING

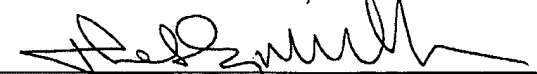
I hereby certify that this correspondence is being transmitted electronically via the United States Patent and Trademark Office's EFS-Web System on July 7, 2009.



Allison M. Deverman Vietor

Respectfully submitted,

KOLISCH HARTWELL, P.C.



Timothy M. Whalen

Registration No. 58,467

Customer No. 23581

Attorney for Applicant(s)/Assignee

520 S.W. Yamhill Street, Suite 200

Portland, Oregon 97204

Telephone: (503) 224-6655

Facsimile: (503) 295-6679